

Code due solely to the errors or omissions of the qualified intermediary. If a qualified intermediary fails to provide the allocation information required by this paragraph (e)(5)(v)(C)(2), with respect to U.S. non-exempt recipients, the withholding agent shall report the unallocated amount paid from the withholding rate pool to an unknown recipient, or otherwise in accordance with the appropriate Form 1099 and the instructions accompanying the form.

(f) *Effective date*—(1) *In general*. This section applies to payments made after December 31, 2000.

(2) *Transition rules*—(i) *Special rules for existing documentation*. For purposes of paragraphs (d)(3) and (e)(2)(i) of this section, the validity of a withholding certificate (namely, Form W-8, 8233, 1001, 4224, or 1078, or a statement described in § 1.1441-5 in effect prior to January 1, 2001 (see § 1.1441-5 as contained in 26 CFR part 1, revised April 1, 1999)) that was valid on January 1, 1998 under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999) and expired, or will expire, at any time during 1998, is extended until December 31, 1998. The validity of a withholding certificate that is valid on or after January 1, 1999, remains valid until its validity expires under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999) but in no event will such withholding certificate remain valid after December 31, 2000. The rule in this paragraph (f)(2)(i), however, does not apply to extend the validity period of a withholding certificate that expires solely by reason of changes in the circumstances of the person whose name is on the certificate. Notwithstanding the first three sentences of this paragraph (f)(2)(i), a withholding agent may choose to not take advantage of the transition rule in this paragraph (f)(2)(i) with respect to one or more withholding certificates valid under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999) and, therefore, to require withholding certificates conforming to the requirements described in this section (new withholding certificates). For purposes of this section, a new withholding certificate is

deemed to satisfy the documentation requirement under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999). Further, a new withholding certificate remains valid for the period specified in paragraph (e)(4)(ii) of this section, regardless of when the certificate is obtained.

(ii) *Lack of documentation for past years*. A taxpayer may elect to apply the provisions of paragraphs (b)(7)(i)(B), (ii), and (iii) of this section, dealing with liability for failure to obtain documentation timely, to all of its open tax years, including tax years that are currently under examination by the IRS. The election is made by simply taking action under those provisions in the same manner as the taxpayer would take action for payments made after December 31, 2000.

[T.D. 8734, 62 FR 53424, Oct. 14, 1997, as amended by T.D. 8804, 63 FR 72184, 72187, Dec. 31, 1998; T.D. 8856, 64 FR 73409, 73412, Dec. 30, 1999; T.D. 8881, 65 FR 32170, 32211, May 22, 2000; 66 FR 18188, Apr. 6, 2001]

§ 1.1441-1T Requirement for the deduction and withholding of tax on payments to foreign persons (temporary).

(a) Through (b)(7)(i)(C) [Reserved]. For further guidance, see § 1.1441-1(a) through (b)(7)(i)(C).

(b)(7)(i)(D). The withholding agent has complied with the provisions of § 1.1441-6(d).

(b)(7)(ii) through (f)(2)(ii) [Reserved]. For further guidance, see § 1.1441-1(b)(7)(ii) through (f)(2)(ii).

[T.D. 8977, 67 FR 2328, Jan. 17, 2002]

§ 1.1441-2 Amounts subject to withholding.

(a) *In general*. For purposes of the regulations under chapter 3 of the Internal Revenue Code, the term *amounts subject to withholding* means amounts from sources within the United States that constitute either fixed or determinable annual or periodical income described in paragraph (b) of this section or other amounts subject to withholding described in paragraph (c) of this section. For purposes of this paragraph (a), an amount shall be treated as being from sources within the United States if the source of the